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OFFICE OF PETITIONS

In re Patent No. 6,540,260 :
Issue Date: April 1, 2003 :
Application No. 09/770,424 :
Filed: January 26, 2001 :
Attorney Docket No. TD08/14 :

ON PETITION

This is a decision in response to a petition filed July 1, 2009, via Certificate of Mailing and supplemented on January 13, 2011, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A petition under 37 CFR 1.378(c) must be filed within twenty-four months after the six month grace period specified in 35 USC 41(b). This patent issued on April 1, 2003. The six month grace period for the 3 ½ year maintenance fee expired at midnight on April 1, 2007. Accordingly, an unintentional petition to reinstate the instant patent must have been submitted no later than April 1, 2009. Since the original petition was filed on July 1, 2009, it was not timely filed and the instant patent will not be reinstated under the unintentional provisions of 37 CFR 1.378(c).

Patentee may wish to pursue reinstatement of the patent under the unavoidable provisions of 37 CFR 1.378(b). A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. However in accordance with 37 CFR 1.34 (a), the signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose behalf he/she acts. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the person signing the petition; however, all future correspondence regarding this patent will be directed solely to the above noted correspondence address currently of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By hand: Customer Window located at:
 U.S. Patent and Trademark Office
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 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-6059. Any questions directly concerning a petition under 37 CFR 1.378(b) may be directed to the Office of Petitions Helpdesk at (571) 272-3282.


Alicia Kelley
Petitions Examiner
Office of Petitions

cc: EDWARD DUTKIEWICZ
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